

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE FIRSTENERGY CORP. SECURITIES
LITIGATION,

This document relates to:
ALL ACTIONS.

Case No. 2:20-cv-03785-ALM-KAJ

Chief Judge Algenon L. Marbley

Magistrate Judge Kimberly A. Jolson

**SECOND UNOPPOSED JOINT MOTION AND STIPULATION TO
CONTINUE BRIEFING SCHEDULE AND AMEND SCHEDULING ORDER**

WHEREAS, on April 14, 2022, the Court entered a Scheduling Order in this matter. ECF 255.

WHEREAS, Lead Plaintiff seeks information (testimony and documents) from defendant FirstEnergy Corp.’s internal investigation relating to the matters set forth in FirstEnergy’s deferred prosecution agreement with the government (the “DPA”) and also seeks information relating to FirstEnergy’s communications with the government, and FirstEnergy maintains that such information is privileged and otherwise protected from discovery.

WHEREAS, on July 22, 2022, the Court entered an Order granting Lead Plaintiff and FirstEnergy’s Unopposed Joint Motion and Stipulation to Continue Briefing and Amend Case Schedule, pursuant to which Lead Plaintiff’s motion to compel is due by November 22, 2022; FirstEnergy’s response in opposition is due by December 16, 2022; and Lead Plaintiff’s reply is due by December 23, 2022. ECF 318.

WHEREAS, Lead Plaintiff and FirstEnergy have conferred and determined that resolution of their privilege dispute could impact FirstEnergy's ongoing cooperation with the government.

See United States v. FirstEnergy Corp., No. 1:21-cr-86, ECF No. 3 (S.D. Ohio July 22, 2021), ¶ 5.

WHEREAS, Lead Plaintiff and FirstEnergy have agreed to ask the Court to continue for approximately three months the briefing schedule for Lead Plaintiff's motion to compel.

WHEREAS, during this stay, Lead Plaintiff agrees that it will not seek disclosure of information from FirstEnergy's internal investigation relating to the matters set forth in the DPA and that it will not seek disclosure of FirstEnergy's communications with the government.

WHEREAS, to compensate for the time lost due to such continuance, Lead Plaintiff and FirstEnergy have agreed to ask the Court to amend the Scheduling Order, such that the Fact Discovery cutoff, and all subsequent dates, are continued six weeks (with an additional continuance to follow upon Lead Plaintiff's request, which will be up to half the number of days between the filing of Lead Plaintiff's motion to compel and final resolution thereof, including any appellate proceedings).

WHEREAS, no party to this case opposes the relief sought in this motion.

WHEREFORE, Lead Plaintiff and FirstEnergy, through their undersigned counsel, hereby agree, stipulate, and respectfully request that the Court enter an Order as follows:

1. The briefing schedule for Lead Plaintiff's motion to compel, as set forth in ECF 318, shall be continued such that Lead Plaintiff's motion to compel is due by February 28, 2023; FirstEnergy's response in opposition is due by March 24, 2023; and Lead Plaintiff's reply is due by March 31, 2023.

2. The Scheduling Order is amended to reflect the following new deadlines:

Fact discovery cutoff	August 11, 2023
Primary expert reports	September 12, 2023
Rebuttal expert reports	November 9, 2023
Reply expert reports	December 13, 2023
Expert discovery cutoff	February 2, 2024
Dispositive motions	March 13, 2024

3. Upon Lead Plaintiff's request, the foregoing deadlines shall be continued for up to half the number of days between the filing of Lead Plaintiff's motion to compel and final resolution thereof, including any appellate proceedings; and

4. No later than February 21, 2023, Lead Plaintiff and FirstEnergy shall file a status report to apprise the Court if their privilege dispute has been resolved or narrowed and whether they believe it may be briefed and resolved according to the new briefing schedule without unduly impacting any ongoing governmental investigations or prosecutions.

IT IS SO STIPULATED.

The undersigned parties have submitted a proposed order for the Court's consideration.

Dated: November 10, 2022

Respectfully submitted,

/s/ Joseph F. Murray (with permission)

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CERTIFICATE OF SERVICE

I hereby certify that on November 10, 2022, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will notify all counsel of record.

/s/ Geoffrey J. Ritts

Geoffrey J. Ritts (0062603)

*One of the Attorneys for Defendant
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